

ORDINANCE NO. 7483

AN EMERGENCY ORDINANCE APPROVING SUBMITTAL TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE COORDINATED MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE SEVENTH DAY OF NOVEMBER, 2006, THE QUESTION OF AUTHORIZING THE CITY COUNCIL TO IMPOSE A CLIMATE ACTION PLAN TAX, EFFECTIVE ONLY FROM APRIL 1, 2007 THROUGH MARCH 31, 2013, AS AN EXCISE TAX COMPUTED UPON THE BASIS OF THE AMOUNT OF ELECTRICITY USED BY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL CUSTOMERS FOR THE PURPOSES OF FUNDING THE CLIMATE ACTION PLAN TO REDUCE AND MITIGATE THE HEALTH AND SAFETY IMPACTS OF GREENHOUSE GAS EMISSIONS AND ADDRESS GLOBAL WARMING; GIVING APPROVAL FOR THE COLLECTION, RETENTION, AND EXPENDITURE OF THE FULL TAX PROCEEDS AND ANY RELATED EARNINGS NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION; SETTING FORTH AN EFFECTIVE DATE; SETTING FORTH THE BALLOT TITLE; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,  
COLORADO:

Section 1. Findings and Determinations.

- (a) The city council finds and determines that the electorate should consider authorizing the city council to impose the Climate Action Plan Tax as an excise tax upon persons consuming electricity as residential, commercial or industrial customers. The purpose of this tax is to fund implementation of the Climate Action Plan which is designed to reduce and mitigate the health and safety impacts of greenhouse gas emissions, and achieve local consistency with the Kyoto Protocol.
- (b) The tax shall be imposed upon the basis of each customer's consumption of electricity measured in Kilowatt/Hours, and the city council shall set the first year tax at a maximum rate of \$0.0022 per kWh for residential customers; \$0.0004 per kWh for commercial customers; \$0.0002 per kWh for industrial customers; these amounts being based upon the cost of the first

year Climate Action Plan implementation of \$860,265, and designed to achieve rates based upon projected program and service expenditures by which 58% will go to the residential sector; 39% to the commercial sector; and 3% to the industrial sector in the first year. Voluntary purchases of utility provided wind power shall be exempt from the tax.

- (c) In subsequent years, the city council shall have the authority to increase the rates as needed to fund the Climate Action Plan, as it may be amended, to a maximum rate of \$0.0049 per kWh for residential customers; \$0.0009 per kWh for commercial customers; \$0.0003 per kWh for industrial customers. These maximum tax rates are estimated to support a maximum \$1,342,000 program budget.
- (d) Tax revenues generated will be used to implement programs to increase energy efficiency, increase renewable energy use, reduce emissions from motor vehicles, and take other steps toward the goal of meeting the Kyoto Protocol.
- (e) These taxes shall be collected for the city by the incumbent electric franchisee or the city if a municipal utility is created. The city shall pay reasonable set up and collection charges to the incumbent electric franchisee, subject to an agreement approved by city council. This section and any agreement shall be interpreted consistent with the city's powers under the city of Boulder Charter Sections 111 [Franchises] and 123 [Rate Setting].
- (f) The city may by ordinance, identify entities exempt from payment of the Climate Action Plan Tax.

Section 2. At the coordinated municipal election to be held in the various precincts and at the polling places of the City of Boulder, County of Boulder and State of Colorado, on Tuesday, the seventh day of November, 2006, between the hours of 7:00 a.m. and 7:00 p.m., there shall be submitted to the electors of the city of Boulder entitled by law to vote thereon, the question set forth below. The official ballot punch card and the official absentee ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

BALLOT ISSUE NO. 202

CLIMATE ACTION PLAN TAX

SHALL CITY OF BOULDER TAXES BE INCREASED \$860,265 ANNUALLY (IN THE FIRST YEAR), AND UP TO \$1,342,000 EACH YEAR THEREAFTER FOR THE PERIOD OF APRIL 1, 2007 TO MARCH 31, 2013, BY AUTHORIZING THE CITY COUNCIL TO LEVY AND COLLECT A CLIMATE ACTION PLAN TAX AS AN EXCISE TAX UPON PERSONS CONSUMING ELECTRICITY AS RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL CUSTOMERS, AND PROVIDING AN EXEMPTION FOR VOLUNTARY PURCHASES OF UTILITY PROVIDED WIND POWER. THE TAX SHALL BE ESTABLISHED WITH A FIRST YEAR RATE OF \$0.0022 PER KILOWATT HOUR (kWh) FOR RESIDENTIAL CUSTOMERS, \$0.0004 PER kWh FOR COMMERCIAL CUSTOMERS, AND \$0.0002 PER kWh FOR INDUSTRIAL CUSTOMERS. THE TAX SHALL TAKE EFFECT ON APRIL 1, 2007 AND EXPIRE ON MARCH 31, 2013, AND SHALL BE FOR THE PURPOSE OF FUNDING A CLIMATE ACTION PLAN TO REDUCE GREENHOUSE GAS EMISSIONS. THE MEASURE WOULD ESTABLISH CITY COUNCIL AUTHORITY TO INCREASE THE TAX AFTER THE FIRST YEAR UP TO A MAXIMUM PERMITTED TAX RATE OF \$0.0049 PER KWH FOR RESIDENTIAL CUSTOMERS; \$0.0009 PER KWH FOR COMMERCIAL CUSTOMERS; AND \$0.0003 PER KWH FOR INDUSTRIAL CUSTOMERS.

TAX REVENUES GENERATED WOULD BE USED TO IMPLEMENT PROGRAMS TO INCREASE ENERGY EFFICIENCY, INCREASE RENEWABLE ENERGY USE, REDUCE EMISSIONS FROM MOTOR VEHICLES, AND TAKE OTHER STEPS TOWARD THE GOAL OF MEETING THE KYOTO PROTOCOL.

AND IN CONNECTION WITH THE CLIMATE ACTION PLAN TAX,

SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREFROM BE COLLECTED AND SPENT WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER, UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

FOR THE MEASURE \_\_\_\_\_

AGAINST THE MEASURE \_\_\_\_\_

Section 3. If a majority of all the votes cast at the election on the measure submitted shall be for the measure, the measure shall be deemed to have passed and shall be effective upon passage, and it shall be lawful for the city council to provide for the amendment of its tax code in accordance with the measure approved.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 5. The city clerk of the city of Boulder shall give public notice of the election on each measure:

- (a) By causing a notice to be published in the Boulder Daily Camera, a daily newspaper of general circulation and published in the city, at least ten days before election day; and
- (b) By mailing at the least cost to "All Registered Voters" at each address within the city at which a voter is registered no later than thirty days before the election, a notice entitled "NOTICE OF ELECTION TO INCREASE TAXES AND FOR A REVENUE CHANGE." This notice shall include only:
  - (I) the election date and hours for voting, the ballot title and text of the measure by this ordinance submitted to the voters and the office address and telephone number of the city clerk;
  - (II) the estimated total of city fiscal year spending for 2006 and the actual total of city fiscal year spending for each of the preceding four years, and the overall percentage and dollar changes;
  - (III) for 2007, city estimates of the maximum dollar amount of the proposed tax increase and of city spending without the increase; and
  - (IV) two summaries, no more than five hundred words each, one for and one against the measure, of written comments filed with the city clerk no later than forty-five days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the measure. The city clerk shall maintain on file and accurately summarize all relevant written comments.

Section 6. The notice of the election shall include the ballot title.

Section 7. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance. The tax established by this measure is intended to be authorized under any lawful means of taxation, including license taxation pursuant to city of Boulder Charter Section 122.

Section 9. This ordinance is hereby declared to be an emergency measure in order for the ballot issue to be presented to the voters at the November 7, 2006 election.

Section 10. This ordinance is necessary to protect the public health, safety and welfare of the residents of the city, and covers matters of local concern.

Section 11. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, PASSED AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS OF THE COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY THIS 29th DAY OF AUGUST, 2006.

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Mayor

Attest:

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City Clerk on behalf of the  
Director of Finance and Record